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EXAMINER

DURAN, ARTHUR D

ART UNIT PAPER NUMBER

3622

DATE MAILED: 03/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

DETAILED ACTION

1. Claims 1-20 have been examined.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brewer (20010047299) in view of Solomon (6,847,935).

Claim 1, 6, 11, 16: Brewer discloses a system for managing commerce comprising:

an interface for sending and receiving data to and from the Internet (Fig. 1; Fig. 13; Fig.

14; [30]);

means for storing data representative of a seller, a distributor and a purchaser ([5],

[64],[66]);

means for storing data representative of a product available from the seller (Fig. 2; Fig.

7);

means for storing data representative of a contract between the seller and the purchaser

(Fig. 2; Abstract);

means for storing data representative of a purchase of the product by the purchaser from the seller (Fig. 7; Fig. 8);

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means for storing data representative of the user purchasing and receiving the product (Fig. 7, Fig. 8, Fig. 10, Fig. 18).;

means for determining a rebate due to the purchaser from the seller (Fig. 7; Fig. 8; Fig. 9; Fig. 10);

means for transferring a payment received from the purchaser to the seller ([83], 'calculate and pay a rebate. . . within 30 days; [32], 'rebate payment is a cyclical process'); and means for determining a chargeback payment due from the manufacturer to the other entities ([32], [64]),

wherein the seller, the distributor and the purchaser access the system using the Internet (Fig. 1; Fig. 13; Fig. 14; [30]; [107]).

Brewer further discloses means for storing data representative of a seller, a distributor, a group purchasing organization and an end user (Fig. 2; Fig. 3; [61], [64], [66]);

Brewer does not explicitly disclose shipment of the product from the distributor to the purchaser.

However, Brewer discloses that the user purchases and receives the product (Fig. 7, Fig. 8, Fig. 10, Fig. 18).

And, Brewer discloses manufacturers, distributors, and wholesalers ([64]; [66], 'The manufacturer, the distributor, the wholesaler, the retailer, the buying group manager and the end customer, may all have various levels of access to this information').

And, Solomon discloses an Internet based rebate processing center for manufacturers, distributors, and users (Abstract) and Solomon discloses storing data representative of a

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shipment of the product from the manufacturer or distributor or other source to the purchaser (col 14, line 65-col 15, line 12).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add Solomon's manufacturer or distributor shipped products to Brewer's products purchased and provided to the user and Brewer's manufacturer, distributor, wholesaler, and user. One would have been motivated to do this in order to present a way for the products to be attained by the user.

Brewer does not explicitly disclose determining a charge back payment due from the manufacturer to the distributor.

However, Brewer further discloses means for determining a charge back payment due from the manufacturer to the direct customer or to the wholesaler ([32]).

As noted above, Brewer discloses manufacturers, distributors, and wholesalers ([64]; [66], 'The manufacturer, the distributor, the wholesaler, the retailer, the buying group manager and the end customer, may all have various levels of access to this information').

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made that Brewer's wholesaler can be a distributor and, therefore, receive chargebacks. One would have been motivated to do this in order to present further features as to the paying of chargebacks and permit a more useable and accurate rebate system.

Also, Examiner notes from the Applicant's Specification (Powell, 20020055850; Fig. 2, Paragraph [0020]) that sellers of goods can be manufacturers.

Claim 2, 7, 12, 17: Brewer and Solomon disclose the system of claim 1. Brewer further discloses that data representative of a contract comprises at least two party names, a product, a

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price, a date, and a term (Fig. 2, 'Contract and Discounts Operational Reporting System'; Fig. 8, 'Rebate Period', 'Date').

Claim 3, 8, 13, 18: Brewer and Solomon disclose the system the system of claim 2.

Brewer further discloses that data representative of a contract further comprises a rebate due from the seller to the purchaser or group purchasing organization (Fig. 7; Fig. 2; Fig. 8).

Claim 4, 9, 14, 19: Brewer and Solomon disclose the system he system of claim 1.

Brewer further discloses means for determining a trade fund balance for each product purchased by the purchaser from the seller; and means for updating the trade fund balance when a rebate is processed (Fig. 7; Fig. 10; Fig. 16; Fig. 17; Paragraphs [21, 18, 30, 34, 35, 53, 60, 61, 62]; and below):

"[0066] As shown in FIG. 10, historical purchasing and actual rebates earned information (e.g., using the Web site or an active control) may be viewed. (This information may be viewed at any level. The manufacturer, the wholesaler, the distributor, the retailer, the buying group manager and the end customer, may all have various levels of access to this information. As would be appreciated by one of ordinary skill in the art, different interfaces and data may be available to each viewer.) This information will be available in various forms (e.g., tabular reports, trending charts, etc.) and can be extracted for download (e.g., to Microsoft Excel based spreadsheets or a generic data file format).

[0097] Actual Rebate History: Contract Sales, Market Share percentage, Contract Price Group rebate percentage, and actual paid rebate by product line will be kept on available on the E-commerce DB for the past two complete rebate periods. This information will be used for

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budgeting of pharmaceutical purchases and rebate accrual by customers, and reference information for sales.

[0098] "Rebate Opportunity" Analysis: The projected rebate result set will be used to drive the sensitivity analysis engine. A report (e.g., spreadsheet or Web page) for each entity will be generated with the result set and a capability to change the market share to understand how sales must change in order to attain the next level of rebate, i.e. attain the next higher contract price group. This analysis engine lets the customer go up and down the rebate tier structure to evaluate optimistic and pessimistic performance".

Claim 5, 10, 15, 20: Brewer and Solomon disclose the system of claim 1. Brewer further discloses that the trade fund balance further comprises an actual trade fund balance and a budgeted trade fund balance ([0097]).

Conclusion

The following prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

a) Schulze (20020055875) discloses manufacturers, retailers and that it is old and well known to pay chargebacks between the manufacturer and retailer;

b) Postrel (20040098317) discloses manufacturers and distributors and contracts and the providing of goods (Fig. 4; Fig. 5; and below):

"[0056] In another aspect of the invention, an electronic bartering system is implemented, wherein product manufacturers, producers, distributors, etc. can provide surplus or overstocked goods for liquidation into the chain of supply of the system and exchange then for points as described herein. This provides an inventory management and liquidation system for these manufacturers and sellers".

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arthur Duran whose telephone number is (571) 272-6718. The examiner can normally be reached on Mon- Fri, 8:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (571) 272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Arthur Duran', is positioned above the printed name.

Arthur Duran
Patent Examiner
12/14/2005